

CIVIL SERVICE COMMISSION MINUTES
July 7, 2010

A special meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 of the County Administration Center, 1600 Pacific Highway, San Diego, California.

Present were:

Francesca Krauel
William O'Connor
A.Y. Casillas
Rudolf Hradecky

Absent was:

W. Dale Bailey

Comprising a quorum of the Commission

Support Staff Present:

Patt Zamary, Executive Officer
Thomas J. Harron, Commission Legal Advisor
Selinda Hurtado-Miller, Reporting

Approved
Civil Service Commission
August 4, 2010

**SAN DIEGO COUNTY CIVIL SERVICE COMMISSION
SPECIAL MEETING MINUTES
JULY 7, 2010**

1:00 p.m. CLOSED SESSION: Discussion of Personnel Matters
and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San
Diego, California

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
4, 5, 6, 7	9		

COMMENTS: Motion by Casillas to approve all items not held for
discussion; seconded by O'Connor. Carried. (Commissioner
Hradecky abstained from approving Agenda Item No. 1).

CLOSED SESSION AGENDA

**County Administration Center, Room 400B
(Notice pursuant to Government Code Sec. 54954.2)
Members of the public may be present at this
location to hear the announcement of the
closed session agenda.**

- A. Commissioner Bailey: CONSIDERATION OF PUBLIC
EMPLOYEE DISCIPLINE (GOV. CODE SEC. 54957(b)) **Frank
Guerra**, former Staff Accountant, appealing a Final
Order of Suspension and Charges from the Auditor and
Controller.
- B. Commissioner O'Connor: CONSIDERATION OF PUBLIC
EMPLOYEE DISCIPLINE (GOV. CODE SEC. 54957(b)) **2010-04**,
appealing an Order of Termination and Charges from the
Sheriff's Department.
- C. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(GOV. CODE SEC. 54956.9(a)) **Earnest Davis v. San Diego
County Civil Service Commission**; San Diego County Air
Pollution Control District, Real Party In Interest;
Superior Court Case No. 37-2010-00093196-CU-WM-CTL.
- D. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(GOV. CODE SEC. 54956.9(a)) **San Diego County Library v.
San Diego County Civil Service Commission**, Court of
Appeal, Fourth Appellate District, Division One, Case
No. D056445. (Superior Court Case No. 37-2009-
00085505-CU-WM-CTL)

E. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (GOV. CODE SEC. 54956.9(b)(1)) - **Referral of Donna Goyer Equal Employment Opportunity Commission (EEOC) Complaint to Department of Justice.** (Letters dated March 4, 2010 from EEOC to Donna Goyer; October 13, 2009 from EEOC to County of San Diego. Available for inspection at Commission office.)

F. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (GOV. CODE SEC. 54957(b)) Title: Executive Officer

OPEN SESSION AGENDA
County Administration Center, Room 358

MINUTES

1. Approval of the Minutes of the regular meeting of June 2, 2010.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Bailey: Maxwell C. Agha, Esq., on behalf of **Flora Sison**, former Staff Nurse, appealing a Final Order of Removal from the Health and Human Services Agency.

Confirmed.

3. Commissioner Krauel: Sarah Loud, Worksite Organizer, SEIU Local 221, on behalf of **Jessica Zehner**, Emergency Services Dispatcher, appealing an Order of Termination and Charges from the Sheriff's Department.

Confirmed.

DISCIPLINES

Findings

4. Commissioner Bailey: **Frank Guerra**, former Staff Accountant, appealing a Final Order of Suspension and Charges from the Auditor and Controller.

FINDINGS AND RECOMMENDATIONS:

Employee appealed his 30-day suspension from his classification of Staff Accountant in the Office of Revenue and Recovery (ORR) of the Department. The suspension came

after the Department documented alleged poor performance and misconduct during a Performance Improvement Plan (PIP). At the Commission hearing, the Department's charges were well documented, and Employee's responses failed to provide adequate justification for his actions and inactions. The Department's 30-day suspension was an appropriate level of discipline in a case that may have merited greater discipline. Accordingly, it is recommended that the Department's 30-day suspension of Employee be affirmed; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by O'Connor to approve Findings and Recommendations; seconded by Casillas. Carried.

AYES:	O'CONNOR, CASILLAS, HRADECKY
NOES:	NONE
ABSENT:	BAILEY
ABSTENTIONS:	NONE
NOT PARTICIPATING:	KRAUEL (Commissioner Krauel is a member of the Audit Committee for the County of San Diego)

5. Commissioner O'Connor: **2010-04**, appealing an Order of Termination and Charges from the Sheriff's Department.

FINDINGS AND RECOMMENDATIONS:

Employee was a Deputy Sheriff-Detentions/Court Services. Employee was terminated by the Department as the result of a second off-duty arrest and conviction within a fourteen-month period for driving with a blood alcohol level substantially in excess of the legal limit. Employee contested only the level of discipline, not the facts alleged in the Order of Termination. The Department proved that the level of discipline was appropriate. Accordingly, it is recommended that the Commission affirm the Order of Termination and Charges; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by O'Connor to approve Findings and Recommendations; seconded by Casillas. Carried.

DISCRIMINATION

Findings

6. Commissioner Krauel: **Jerome Hernandez**, candidate for employment in the classification of Residential Care Worker Trainee, alleging discrimination by the Health and Human Services Agency. (See Item No. 8 below.)

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission (Commission) on April 7, 2010, the Commission appointed Commissioner Francesca Krauel to investigate the complaint submitted by Jerome Hernandez, which alleged race and non-job-related factor discrimination by the Health and Human Services Agency. In accordance with the established rules and procedures of the Commission, the matter was concurrently referred to the Office of Internal Affairs (OIA) for investigation. The OIA concluded the investigation and has reported its findings to the Commission.

The Investigating Officer has taken into consideration all documentation submitted in this matter. The report of OIA has been received and reviewed by the undersigned Investigating Officer who concurs with OIA's Report and has concluded that the evidence does not support a finding of probable cause that a violation of discrimination laws occurred. It is therefore recommended that Mr. Hernandez's Rule VI discrimination complaint be denied; and that the Commission approve and file this report with the appended OIA Summary Investigative Report with a finding of no probable cause to believe that the Complainant has been unlawfully discriminated against.

Motion by Krauel to approve Findings and Recommendations; seconded by O'Connor. Carried.

7. Commissioner Casillas: **Divina Tejada**, Senior Accountant, Sheriff's Department, alleging discrimination by the Probation Department and the Sheriff's Department.

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission (Commission) on April 7, 2010, the Commission appointed Commissioner A. Y. Casillas to investigate the complaint submitted by Divina Tejada, which alleged retaliation discrimination by the Probation Department and the Sheriff's Department. In accordance with the established rules and procedures of the Commission, the matter was concurrently referred to the Office of Internal Affairs (OIA) for investigation. The OIA concluded the discrimination investigation and has reported its findings to the Commission.

This Investigating Officer has taken into consideration all documentation submitted in this matter. The report of OIA

has been received and reviewed by the undersigned Investigating Officer who concurs with OIA's Report and has concluded that the evidence does not support a finding of probable cause that a violation of discrimination laws occurred. It is therefore recommended that Ms. Tejada's Rule VI discrimination complaint be denied; and that the Commission approve and file this report with the appended OIA Summary Investigative Report with a finding of no probable cause to believe that the Complainant has been unlawfully discriminated against.

Motion by Casillas to approve Findings and Recommendations; seconded by O'Connor. Carried.

SELECTION PROCESS

Appeals

8. **Jerome Hernandez**, candidate, appealing his non-selection for the classification of Residential Care Worker Trainee by the Health and Human Services Agency. (See Item No. 6 above.)

RECOMMENDATION: Deny Request.

Staff Recommendation approved.

OTHER MATTERS

Seal Performance Appraisal

9. **Terry Powers**, Land Use Environmental Planner II, Department of Planning and Land Use, requesting the sealing of his performance appraisal covering the period February 17, 2009 through February 16, 2010.

RECOMMENDATION: Deny Request.

Mr. Powers has requested a continuance of this item and the Department of Planning and Land Use does not contest his request.

Continued.

10. Public Input. **None.**

ADJOURNED: 2:53 p.m.

NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION: AUGUST 4, 2010

ASSISTANCE FOR THE DISABLED:

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